

MERCEDES R. VDA. DE GUERRERO, COMPLAINANT, VS. ATTY. HAROLD M. HERNANDO, RESPONDENT.

A.C. No. 704. November 24, 1975

Ponente: AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-704/>

AQUINO, J.:

This disbarment case was filed against Atty. Harold M. Hernando of Sarrat, Ilocos Norte by Mercedes Hernando Reyes Vda. de Guerrero of Laoag City, a septuagenarian, who described herself as a poor, defenseless and helpless widow.

Malpractice charges. — In behalf of eleven plaintiffs, Atty. Hernando filed in the Court of First Instance of Ilocos Norte a complaint for partition against Mrs. Guerrero. After the complaint was filed, seven of the plaintiffs impleaded in that case, who are Mrs. Guerrero's cousins, namely, (1) Felicidad B. Reyes-Fonacier, (2) Rosario B. Reyes-Concepcion, (3) Violeta B. Reyes- Samonte, (4) Mamerta B. Reyes-Mercado, (5) Mercedes B. Reyes, (6) Federico B. Reyes and (7) Concepcion B. Reyes, filed manifestations in court, expressing their surprise because they were included as plaintiffs although they never authorized Atty. Hernando to represent them (Civil Case No. 3717-II, Ilocos Norte CFI, Mateo H. Reyes, et al. vs. Mercedes R. Vda. de Guerrero). By reason of those manifestations, Mrs. Guerrero charged Atty. Hernando with misconduct or malpractice.

To refute the charge, Atty. Hernando explained that he was engaged by Mateo H. Reyes to file the complaint for partition; that Mateo directed him to include as co-plaintiffs the aforementioned persons, who are his nephew and nieces and who were interested in the subject-matter of the action; that four of those persons executed a special power of attorney designating Mateo as their representative in that litigation (Exh. H or 1); that Mateo told him that the special power of attorney of his other nieces had already been mailed and he would receive it in due course, and that after the said persons revoked the power of attorney and manifested that they were disinclined to appear as plaintiffs, he (Atty. Hernando) amended the complaint by dropping them as plaintiffs and impleading them as defendants.

In view of that explanation, the Solicitor General recommended the dismissal of the malpractice charge. That recommendation is justified. Respondent Hernando was not guilty of any professional misconduct in including as plaintiffs the said persons who, by the way, had not joined Mrs. Guerrero in filing the disbarment complaint herein.

Credence can be given to his profession of good faith in including them as plaintiffs. He did so at the behest of their uncle, Mateo H. Reyes. Four of them in their special power of attorney appointed Mateo as their agent in initiating the action. Moreover, in a partition action all the co-owners should be joined as parties (Sec. 1, Rule 69, Rules of Court; Reyes vs. Cordero, 46 Phil. 658).

Misrepresentation as to exhibition of residence certificate. — Mrs. Guerrero also charged respondent Hernando with having indicated in the jurat of a tenancy contract, as the residence certificate of Tranquilino Bernardo, the residence certificate corresponding to Antonio Raymundo. That contract was presented in evidence in the

aforecited partition case.

It is incontrovertible that as a notary Atty. Hernando made it appear in the jurat of the tenancy contract, which was subscribed and sworn to before him by Evaristo Juan and Tranquilino Bernardo (and wherein Mrs. Guerrero was an instrumental witness), that Residence Certificate No. A-2893960 was issued to Bernardo on January 20, 1963 and that Juan's residence certificate was also issued on January 20, 1963, whereas, according to the records of the internal revenue office at Laog City Residence Certificate No. A-2893960 was issued to Raymundo on January 15, 1963 and Juan's residence certificate was also issued on that same date.

Respondent's defense is that he asked Bernardo to produce his residence certificate; that Mateo H. Reyes interposed that he had Bernardo's residence certificate but he was not able to bring it at that time; that a week later Mateo met Atty. Hernando in front of the post office and, on that occasion he copied the number and date appearing in Bernardo's residence certificate, and that according to the records of the internal revenue office the duplicate of said residence certificate was issued to Raymundo and the original to Bernardo.

Atty. Hernando in his answer claimed that the erroneous entry regarding the number of Bernardo's residence certificate was a "purely harmless" "clerical or topographical" (should be typographical) error which did not concern Mrs. Guerrero and which did not affect the integrity of the document.

That claim cannot be sustained. Bernardo did not testify to support respondent's pretension that he (Bernardo) was provided with a residence certificate. The testimony of Mateo H. Reyes that he had secured a residence certificate for his tenant, Bernardo, which turned out to have been issued to Raymundo, is obviously fabricated. No such residence certificate was presented as evidence. The imputation that Residence Certificate No. A-2893960 was issued twice by the internal revenue clerk is unbelievable.

The exhibition of the residence certificate is required whenever a document is acknowledged before a notary (Sec. 6, Commonwealth Act No. 465). Such a requirement may enable the notary to ascertain the identity of the person appearing before him and to unmask impostors (*Manila Surety & Fidelity Co., Inc. vs. Luna*, 107 Phil. 281). (There is a similar requirement in section 251 of the Revised Administrative Code with respect to the cedula certificate).

It is not a defense that the complaint against Atty. Hernando might have been provoked by the act of his client, Mateo H. Reyes, in filing a disbarment complaint against Atty. Amador C. Castro, Mrs. Guerrero's counsel in the aforementioned Civil Case No. 3717-II, for allegedly tampering with the dates appearing in the original summons and sheriff's return (supposedly to avoid default). That complaint was dismissed for lack of evidence (Resolution dated March 14, 1968 in *Reyes vs. Castro*, Administrative Case No. 616).

We find Atty. Hernando guilty of misconduct as a notary in making it appear in the jurat of a tenancy contract that affiant Tranquilino Bernardo exhibited to him a residence certificate when in fact he did not do so. Such misrepresentation is unquestionably censurable and justifies disciplinary action against the respondent as a member of the bar and as a notary public (Cf. *National Bureau of Investigation vs. Morada*, 112 Phil. 717; *Viuda de Veloso vs. Madarang*, 61 Phil. 773). The respondent violated the mandate in his attorney's oath to "obey the laws" and "do no falsehood" (Form 28, Appendix of the Rules of Court).

The instant case is different from *Samonte vs. Rodrigo, Jr.*, Administrative Case No. 930, December 17, 1970, 36 SCRA 283 where a notary in good faith copied the data of affiant's residence certificate, as found in his income tax return, and it was later discovered that the residence certificate mentioned therein was not actually issued to the affiant. The notary was given an admonition and warned to be more careful in the discharge of his notarial duties.

Considering the irregularity committed by the respondent, we hold that he deserves a severe censure and that he should be suspended from acting as notary public for one year.

WHEREFORE, the charge of malpractice against respondent Harold M. Hernando is dismissed but he is severely censured for the falsehood which he had committed and at the same time he is barred or disqualified from acting as a notary public for a period of one year counted from notice of the entry of judgment in this case. He is warned that a more drastic punishment would be imposed on a repetition of the same anomaly.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Concepcion Jr., JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.